THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.21432 of 2006

16.10.2006

Between:

Mansoora Bee, D/o.late Abdul Rahman

… Petitioner

AND

The Mandal Revenue Officer, Yellandu Mandal, Khammam District
And others

… Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.21432 of 2006

ORDER:

This writ petition is filed challenging the proceedings/order dated 26.3.1995 passed by the first respondent whereby and whereunder the Mandal Revenue Officer, Yellandu Mandal (MRO), the first respondent herein, ordered issue of Pattadar Pass Books under Section 5-A of A.P. Rights in Land and Pattadar Pass Books Act, 1971 (the Act, for brevity) in favour of the fourth respondent herein.

The petitioner is daughter of one Abdul Rahman. He was allegedly pattadar and absolute owner of land admeasuring Acs.5.00 in survey No.609 of Yellandu village. The petitioner alleges that after death of her father, she succeeded to the property as absolute owner. Respondents 4 and 5 filed an application before the MRO some time in July/August 1994 in Form-X of A.P. Rights in Land and Pattadar Pass Books Rules, 1989 (the Rules, for brevity). In that application, they sought for regularization of a transaction between Abdul Rahman and Bindulal, father of respondents 4 and 5, in relation to the subject land. Respondents 4 and 5 alleged in the said application that petitioner's father sold the land to Bindulal under an agreement of sale. As the petitioner was sole surviving heir of late Abdul Rahman, the MRO issued notice under Rule 23(2) of the Rules in Forms-XI and XII, the petitioner submitted objections on 16.8.1994. The MRO noticed that the fourth respondent submitted an unregistered sale

agreement and also produced two witnesses in support of the transaction of sale. The MRO recorded the statements. The witnesses supported the contents of agreement of sale dated 11.4.1965 between late Abdul Rahman and late Bindulal. Therefore, the MRO issued the impugned order dated 26.3.1995.

Learned Counsel for the petitioner vehemently contends that the MRO could not have passed orders under Section 5-A of the Act based on Xerox copy of the alleged agreement of sale between petitioner's father and father of respondents 4 and 5. Secondly, he would urge that the first respondent did not consider the objections raised by the petitioner and did not conduct any enquiry. **Opposing the writ petition**, learned Assistant Government Pleader for Revenue (General-T) contends that the writ petition is barred by delay and laches, as the petitioner impugns the proceedings of the MRO issued in 1995, after lapse of eleven (11) years. Secondly, he would submit that Section 5-A of the Act does not contemplate any agreement between the parties and that even if the transfer is made without a document, such transferee is entitled for regularization of his possession. The learned Assistant Government Pleader also refutes the allegation that the objections made by the petitioner are not considered.

After giving anxious consideration to the submissions made by the learned Counsel for the petitioner, this Court is not able to accept any of them. The brief reasons are as follows. First, paraphrasing Section 5-A of the Act would show that, "Where a person is an occupant by virtue of an alienation or transfer made or effected otherwise than by the registered document, the alienee may apply to MRO for a certificate declaring that such alienation or transfer is valid." The provision as such does not contemplate the occupation by an alienee pursuant to an agreement of sale. Further, as seen from the impugned order, the fourth respondent produced unregistered agreement of sale dated 11.4.1965 between late Abdul Rahman and late Bindulal. He also produced two witnesses whose statements were recorded. The submission that based on a Xerox copy the impugned order could not be passed, therefore, cannot be accepted. Secondly, the MRO issued notice to the petitioner and considered her objections as seen from the impugned order. Lastly, the impugned order was passed on 26.3.1995 but the petitioner chose to file the present writ petition after lapse of eleven (11) years. As an

explanation for the delay, learned Counsel for the petitioner contends that the copy of the order dated 26.3.1995 was never served on the petitioner, that she alone is in possession and that two weeks prior to filing of the writ petition, respondents 4 and 5 were digging pits for raising constructions, when she came to know about the impugned order. This explanation cannot be accepted. Admittedly, the petitioner submitted objections on 16.8.1994 and, therefore, it was her duty to pursue the matter to its logical end. Having failed to do so, she cannot now be permitted to challenge the order passed by the MRO dated 26.3.1995.

The writ petition is, therefore, dismissed *in limine*. No costs.

October 16, 2006. (**V.V.S.RAO, J**)

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